

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: NATIONAL PRESCRIPTION
OPIATE LITIGATION

THIS DOCUMENT RELATES TO:

TPP Cases

) MDL 2804

) Case No. 1:17-md-2804

) Judge Dan Aaron Polster

) **ORDER DENYING WITHOUT**
) **PREJUDICE COSTCO'S MOTION TO**
) **STRIKE**

Before the Court is Costco's motion to strike the allegations against it from the TPPs' Consolidated and Amended Third Party Payor Class Action Complaint. Docket no. 5753. For the reasons below, Costco's motion is **DENIED** without prejudice.

On July 31, 2024, the Court held a status conference with the PEC, counsel for TPPs, and defense counsel. During the conference, counsel for TPPs sought permission to identify an appropriate non-bellwether "placeholder" case and amend the complaint therein to preserve class-action allegations for possible eventual settlement purposes. The stated purpose of the placeholder complaint was to preserve a potential vehicle for resolving all TPP cases against a defendant that might be interested in pursuing a class action settlement. The PEC represented during the status conference that the chosen placeholder case would not be litigated.

The Court agreed with this suggestion and ordered TPPs to "identify an appropriate non-bellwether case in which to state class action allegations." July 31, 2024 Non-Doc. Order. Pursuant to that Order, the TPPs served an amended placeholder class-action complaint on defendants. In the notice of service, the TPPs again reiterated: "This placeholder class action complaint ***will not be litigated*** pending further Court Order (after due notice and an opportunity to be heard), such as

for purposes of facilitating and approving any potential settlement. The placeholder complaint need not be responded to by Defendants.” Docket no. 5638 at 2. The language was subsequently adopted by the Court in the parties’ proposed case management order. *See* docket no. 5666 at 3.

Accordingly, the concerns underlying Costco’s motion to strike are not ripe and the motion is denied without prejudice.

IT IS SO ORDERED.

/s/ Dan Aaron Polster November 15, 2024
DAN AARON POLSTER
UNITED STATES DISTRICT JUDGE